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Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20554

MAY 28 1999

FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF THE SECRETARY

In re Applications of	)	CC Docket No. 91-142
)	
ALGREG CELLULAR ENGINEERING	)	File No. 10607-CL-P-307-A-89
)	
For Facilities in the Domestic Public)	
Cellular Telecommunications Radio)	
Service on Frequency Block A)	
in Market 307 - Alabama 1-Franklin)	
)	
CRANFORD CELLULAR COMMUNICATIONS	)	File No. 10611-CL-P-311-A-89
)	
For Facilities in the Domestic Public)	
Cellular Telecommunications Radio)	
Service on Frequency Block A)	
in Market 311 - Alabama 5-Cleburne)	
)	
NEW ERA CELLULAR)	
TELE-COMMUNICATIONS	)	File No. 10563-CL-P-332-A-89
)	
For Facilities in the Domestic Public)	
Cellular Telecommunications Radio)	
Service on Frequency Block A)	
in Market 332 - Arkansas 9-Polk)	
)	
BAY CELLULAR OF FLORIDA	)	File No. 10754-CL-P-497-A-89
)	
For Facilities in the Domestic Public)	
Cellular Telecommunications Radio)	
Service on Frequency Block A in)	
Market 497 - Mississippi 5 - Washington)	
)	
FLORIDA CELLULAR	)	File No. 10445-CL-P-505-A-89
)	
For Facilities in the Domestic Public)	
Cellular Telecommunications Radio)	
Service on Frequency Block A)	
in Market 505 - Missouri 2-Harrison)	
)	
A-1 CELLULAR COMMUNICATIONS	)	File No. 10454-CL-P-514-A-89
)	
For Facilities in the Domestic Public)	
Cellular Telecommunications Radio)	
Service on Frequency Block A)	
in Market 514 - Missouri 11-Moniteau)	
)	
BRAVO CELLULAR	)	File No. 10673-CL-P-579-A-89
)	
For Facilities in the Domestic Public)	
Cellular Telecommunications Radio)	
Service on Frequency Block A in)	
Market 579 - North Carolina 15-Cabarrus)	
)	

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ALPHA CELLULAR) File No. 10909-CL-P-586-A-89
For Facilities in the Domestic Public)
Cellular Telecommunications Radio)
Service on Frequency Block A)
in Market 586 - Ohio 2-Sandusky)
CEL-TEL COMMUNICATIONS	) File No. 10912-CL-P-589-A-89
For Facilities in the Domestic Public)
Cellular Telecommunications Radio)
Service on Frequency Block A)
in Market 589 - Ohio 5-Hancock)
EJM CELLULAR PARTNERS	) File No. 10567-CL-P-596-A-89
For Facilities in the Domestic Public)
Cellular Telecommunications Radio)
Service on Frequency Block A)
in Market 596 - Oklahoma 1-Cimarron)
PINELLAS COMMUNICATIONS	) File No. 10808-CL-P-613-A-89
For Facilities in the Domestic Public)
Cellular Telecommunications Radio)
Service on Frequency Block A)
in Market 613 - Pennsylvania 2-McKean)
CENTAUR PARTNERSHIP	) File No. 10720-CL-P-631-A-89
For Facilities in the Domestic Public)
Cellular Telecommunications Radio)
Service on Frequency Block A in)
Market 631 - South Carolina 7-Calhoun)
SIGNAL CELLULAR COMMUNICATIONS	) File No. 10721-CL-P-632-A-89
For Facilities in the Domestic Public)
Cellular Telecommunications Radio)
Service on Frequency Block A in)
Market 632 - South Carolina 8 - Hampton)
A-1 CELLULAR COMMUNICATIONS	) File No. 10409-CL-P-661-A-89
For Facilities in the Domestic Public)
Cellular Telecommunications Radio)
Service on Frequency Block A)
in Market 661 - Texas 10-Navarro)
EJM CELLULAR PARTNERS	) File No. 10116-CL-P-721-A-89
For Facilities in the Domestic Public)
Cellular Telecommunications Radio)
Service on Frequency Block A)
in Market 721 - Wyoming 4-Niobrara)

JAYBAR COMMUNICATIONS	)	File No. 10042-CL-P-323-A-88
)	
For Facilities in the Domestic Public)	
Cellular Telecommunications Radio)	
Service on Frequency Block A)	
in Market 323 - Arizona 6-Graham for)	
Station KNKN 251)	
)	
DATA CELLULAR SYSTEMS	)	File Nos. 10029-CL-P-345-A-88
	)	07080-CL-P-MP-91
For Facilities in the Domestic Public)	
Cellular Telecommunications Radio)	
Service on Frequency Block A)	
in Market 345 - California 10-Sierra)	
for Station KNKN 250)	
)	
CELLULAR PACIFIC	)	File Nos. 10031-CL-P-346-A-88
	)	06606-CL-MP-90
For Facilities in the Domestic Public	)	06688-CL-MP-90
Cellular Telecommunications Radio)	
Service on Frequency Block A in)	
Market 346 - California 11-El Dorado)	
for Station KNKN 252)	
)	
NORTH AMERICAN CELLULAR	)	File No. 10066-CL-P-388-A-88
)	
For Facilities in the Domestic Public)	
Cellular Telecommunications Radio)	
Service on Frequency Block A in)	
Market 388 - Idaho 1-Boundary for)	
Station KNKN 253)	

TO: Magalie Roman Salas, Secretary
for direction to
John I. Riffer
Assistant General Counsel, Administrative Law Division

PETITION FOR RECONSIDERATION

1. Pursuant to Section 1.106 of the Commission's Rules, Castle Trust, Orbit Cellular, RSA Cellular Partners, Schuylkill Mobile Fone, Inc., Scott Reardon, Skyline Cellular Partners, Sunrise Trust, Walker Trust, and Turnpike Cellular Partners (collectively referred to herein as "Petitioners") hereby seek reconsideration of the Memorandum Opinion and Order ("MO&O"), FCC 99I-08, Mimeo No. 90447, released April 28, 1999 in the above-captioned proceeding.

2. In the MO&O, the Assistant General Counsel, Administrative Law Division ("AGC"), acting pursuant to Section 0.251(c) of the Commission's rules (see MO&O, ¶6), purports to "sever from [this] proceeding on a prospective basis" (MO&O, ¶5) certain of the captioned parties. To the extent that that "severance" is intended to insulate the subject parties from any further consideration relative to the merits of the issues in this proceeding, such action is ineffective because the AGC does not have the authority to do so.

3. The Petitioners are all applicants for cellular authorizations in one or more of the markets specified in the above-captioned applications. The Petitioners have duly prosecuted their respective applications consistently with the Commission's rules, regulations and processes. The Petitioners' applications were not selected in the Commission's lottery processes; the above-captioned parties' applications were selected. Nevertheless, because the Commission has not yet taken any final action in this proceeding, the Petitioners' applications remain pending before the Commission.

4. The Petitioners filed a Statement for the Record in June, 1998, in which they advised the Commission (and all other parties hereto) that the Petitioners were joining in and adopting (by incorporation in their Statement) the issues as set forth in the two petitions for reconsideration already pending relative to the Commission's decision in Algreg Cellular Engineering ("Algreg"), 12 FCC Rcd 8148 (1997).

5. In the MO&O, the AGC states that he is "sever[ing]" a number of parties from this proceeding "on a prospective basis". The meaning and intended effect of this are not entirely clear. It appears that the AGC intends that the "severed" parties will be removed from the proceeding, and that the issues which have been raised relative to the qualifications of those "severed" parties will not be subject to further consideration.

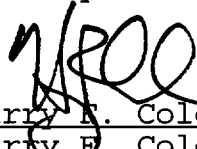
6. But that would constitute, in effect, favorable disposition of the substantive issues presently before the Commission relative to those parties. While one of the groups which raised those issues has agreed to withdraw its petition as part of a settlement agreement with the parties to be severed, the Petitioners have made no such agreement. Since the Petitioners have adopted the arguments set forth in the petitions for reconsideration which have been filed herein, those arguments are still pending before the Commission relative to all the captioned parties, whether or not other parties may seek to withdraw them.

7. To the extent that the AGC's "severance" of certain parties might be deemed to insulate those parties from any substantive disposition of the issues, that "severance" plainly involves a "disposition on the merits of a previously specified issue concerning" those parties' basic qualifications. But the General Counsel (and, through him, the AGC) do not have delegated authority to take such action. Section 0.251(c). Accordingly, to the extent that the "severance" is in fact intended to provide

such insulation, that action is impermissible and must be reconsidered. ^{1/}

WHEREFORE, for the reasons stated, the Petitioners submit that, to the extent that it may insulate the severed parties from substantive disposition of designated issues in this on-going proceeding, the MO&O exceeds the authority delegated to the Office of the General Counsel, and it must therefore be reconsidered.

Respectfully submitted,


/s/ Harry F. Cole
Harry F. Cole

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(202) 833-4190

Counsel for the Petitioners

May 28, 1999

^{1/} Of course, if the action is not intended to have that effect, and if the issues remain pending against those parties notwithstanding their settlement with others and their "severance" herefrom, then no reconsideration would be necessary. In that event, however, the AGC should at a minimum issue a clarifying order, so that the effect of his MO&O will be clearly stated for all concerned.

CERTIFICATE OF SERVICE

Harry F. Cole hereby certifies that on this 28th day of May, 1999, I caused copies of the foregoing "Opposition to Motion to Strike" to be hand- delivered (as indicated below) or sent via U.S. first class mail, postage prepaid, addressed to the following:

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